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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,574	06/25/2001	Patrick L. Connor	042390P11397	3312

7590 03/07/2006  
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EXAMINER

CHANG, RICHARD

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
09/891,574	CONNOR, PATRICK L.	
Examiner	Art Unit	
Richard Chang	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04/18/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-30 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-13, 15 and 17-24 is/are rejected.
- 7) ☒ Claim(s) 5, 7 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's arguments and amendments with respect to claims 1-13, 15-24 and 26-30 have been fully considered but are moot in view of the new ground(s) of rejection.

Claims 14 and 25 had been canceled.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6, 8-13, 15 and 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 5,699,519 ("Shiobara") in view of US patent 5,999,541 A ("Hinchey et al.").

Regarding claims 1 and 12, Shiobara teaches a method of controlling the order of processing packets (a data transmission method and apparatus applicable to network system) (See Fig. 2, Col 5, lines 64-66), comprising of receiving packets (1) from a network (by a signal receiving/inputting circuit (21) from another node) (See Fig. 3, Col 6, lines 11-12),

identifying (deriving necessary data) a property for at least one of the packets (1),  
(in a first recognition section 25) (See Fig. 3, Col 6, lines 16-18),  
associating a priority level (input to a priority control section 29) based on the  
property with the at least one packet (the data derived by the first recognition section  
25) (See Fig. 3, Col 6, lines 14-25),  
inserting the at least one packet into a first queue (input to an input queue  
section 23) (See Fig. 3, Col 6, lines 12-13), and  
processing the at least one packet (for each queue 23x, receiving packets 1) in  
an order based, at least in part, on the priority level (of different priority degrees in the  
order of lower priority in accordance with the instruction of the priority control section 29)  
(See Fig. 3, Col 6, lines 40-44).

Shiobara teaches substantially all the claimed invention but did not disclose  
expressly the particular application involving limitations of

“attaching a packet description for the priority level to the at least one packet and  
the inserting into the first queue includes packets having different priority levels”.

Hinchey et al. teaches a method and system for data transmission across  
different types of networks wherein attaching a packet description (46 priority bits) for  
the priority level (0-8) to the at least one packet (30 token ring packet) (See Fig. 2, Col  
3, lines 12-28).

A person of ordinary skill in the art would have been motivated to employ  
Hinchey et al. in Shiobara in order to obtain a method of controlling the order of

processing packets and to take advantage of attaching a packet priority bits for the priority level to the at least one packet in claims 1 and 12.

The suggestion/motivation to do so would have been to attach a packet priority bits for the priority level to the at least one packet, as suggested by Hinchey et al. in Col 3, lines 12-28. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Hinchey et al. with the Shiobara to obtain the inventions specified in claims 1 and 12.

Regarding claims 2-4, 6, 13, 15 and 17-18, as discussed above, these claims have limitations that is similar to those of claims 1, 12 and 26 and Shiobara further teaches that associating a priority level with at least a second packet (23b queue of different processing priority classes), inserting the at least second packet into a second queue (23b), and processing the at least second packet in an order based, at least in part, on the priority level of the at least second packet (the input queue section has three queues 23a, 23b and 23c) (See Fig. 3, Col 4, lines 9-12), thus it is rejected with the same rationale applied against claims 1, 12 and 26 above.

Regarding claims 8, 10, 19 and 21, as discussed above, these claims have limitations that is similar to those of claims 1 and 12 and Hinchey et al. further teaches that the property is an acknowledgment packet to be processed prior to the processing of other packets received (reverse direction set) (See Fig. 2, Col. 3, lines 30-45), thus it is rejected with the same rationale applied against claims 1 and 12 above.

Regarding claims 9 and 20, as discussed above, these claims have limitations that is similar to those of claims 1, 12 and 26 and Hinchey et al. further teaches that

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identifying of the property is by determining the packet size (See Fig. 2, Col. 3, lines 30-45), thus it is rejected with the same rationale applied against claims 1, 12 and 26 above.

Regarding claims 11 and 22, as discussed above, these claims have limitations that is similar to those of claims 1, 12 and 26 and Hinchey et al. further teaches that performed by a final destination receiver station on the network (token ring) (See Fig. 3, Col 4, lines 9-12), thus it is rejected with the same rationale applied against claims 1, 12 and 26 above.

Regarding claim 23, as discussed above, this claim has limitations that is similar to those of claim 1 and Shiobara further teaches that each of the host apparatus H#1-H#NN typically consists of a programmable controller or a computer for execution of control steps (a plurality of sequences of executable instructions, which, when executed by a processor... on the packet description) (See Fig. 2, Col 5, lines 37-40), thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 24, as discussed above, this claim has limitations that is similar to those of claim 23 and Shiobara further teaches that the common control microcomputer (9) is constructed to perform those various control operations for the input section (2) (additional sequences of executable ... order for processing) (See Fig. 3, Col 8, lines 48-50), thus it is rejected with the same rationale applied against claim 23 above.

***Allowable Subject Matter***

4. Claims 26-30 are allowed.

5. Claims 5, 7 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if no art rejection can be applied.

***Reason for indicating Allowable Subject Matter***

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art along or in combination fails to teach or make obvious the following limitations:

“identifying an acknowledgment property packet, the acknowledgment packet having a pre-designated priority value; associating a high priority level to the acknowledgement packet. Wherein associating the high priority level to the acknowledgement packet includes disregarding the pre-designated priority value” as recited in the independent claim 26.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chang whose telephone number is (571) 272-3129. The examiner can normally be reached on Monday - Friday from 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



rkc

Richard Chang  
Patent Examiner  
Art Unit 2663



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SUPERVISORY PATENT EXAMINER